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LANCE S. WILSON
CLERK

DEPUTY

1 DANIEL G. BOGDEN
United States Attorney
2 District of Nevada

3 GREG ADDINGTON
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4 Nevada Bar 6875
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5 Reno, Nevada 89501
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7

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 GUADALUPE BARRAZA,)
11 MARTHA BARRAZA,)
and THE ESTATE OF CHRISTIAN) CV-N-03-0061-ECR-VPC
12 I. BARRAZA, deceased,)
13 Plaintiffs,)
14 vs.)
15) (formerly Case No. CV02-056849, In the
WASHOE MEDICAL CENTER INC.,) Second Judicial District Court of the State
MICHAEL WALBORN, M.D.,) of Nevada, Washoe County, Nevada)
STEVEN SHANE, M.D., BARRY)
FRANK, M.D., and DOES I-X,)
inclusive,)
18 Defendants.)
19 _____)

20

21 NOTICE OF REMOVAL

22 Notice is hereby given that Defendant, Michael Walborn, M.D., by and through his attorneys, Daniel
23 G. Bogden, United States Attorney for the District of Nevada, and Greg Addington, Assistant United States
24 Attorney, have removed this action from the Second Judicial District Court of the State of Nevada, Washoe
25 County, Nevada, to the United States District Court, District of Nevada, on the following grounds:
26

J.

1. Michael Walborn, M.D. is a Defendant in the above-captioned civil caption now pending in the District Court, Clark County, Nevada, civil action no. CV02-06849. Copies of all process, pleadings, and orders served upon Defendant in such action are attached hereto.

4 2. The above-captioned action is one which may be removed without bond to this court
5 pursuant to subsection (d) of Section 2679, Title 28, United States Code, for the reasons that (a) Plaintiffs
6 in such action seek judgment for damages resulting from the allegedly negligent or wrongful act or omission
7 of Defendant Walborn; (b) at the time of the alleged occurrence, Defendant Walborn was acting within the
8 scope of his employment as a deemed employee of the United States; and (c) the remedy against the United
9 States provided by sections 1346(b) and 2672 of Title 28, United States Code, is exclusive of any other civil
10 action of proceeding against Defendant Walborn for money damages by reason of this subject matter.

12 DATED: January 31, 2003

Respectfully submitted,

DANIEL G. BOGDEN
United States Attorney

GREG ADDINGTON
Assistant United States Attorney

JAN-28-03 12:31 From:

T-496 P.10/15 Job-584

JAN-28-03 12:31 From:

T-496 P.08/15 Job-584

1 CODE NO. S1425
 2 STEPHEN H. OSBORNE
 3 Nevada Bar No. 4712
 4 232 Court Street
 5 Reno, NV 89501
 6 (775) 789-4944
 7 Attorney for Plaintiffs

EMERGENCY
 2002 NOV 20 Fri 4:26
 RONALD A. LONGSTAFF JR.
 BY C. Parikh
 DEPUTY

5

6

7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
 IN AND FOR THE COUNTY OF WASHOE

10

11 GUADALUPE BARRAZA,
 12 MARTHA BARRAZA,
 13 and THE ESTATE OF CHRISTIAN
 I. BARRAZA, deceased.

Case No. C02-06847

Dept. No.: 6

14

Plaintiffs,

15

vs-

16

17 WASHOE MEDICAL CENTER, INC.,
 18 MICHAEL WALBORN, M.D.,
 19 STEVEN SHANE, M.D., BARRY
 20 FRANK, M.D., and DOES I-X,
 inclusive,

21

Defendants.

22

COMPLAINT FOR MEDICAL MALPRACTICE

23

24 COMES NOW, Plaintiff, GUADALUPE BARRAZA, MARTHA BARRAZA, and THE
 25 ESTATE OF CHRISTIAN I. BARRAZA, deceased, by and through their attorney, Stephen H.
 Osborne of LAW OFFICE OF STEPHEN H. OSBORNE, LIMITED, and for their claim of relief
 26 against the Defendants, and each of them, alleges as follows:

1 the events herein alleged took place primarily in the County of Washoe, State of Nevada.

2 9. The true names and capacities, whether individual, corporate, associate or otherwise
3 of DOES I through X, inclusive, are unknown to Plaintiff, and Plaintiff therefore sues them by
4 such fictitious names. Plaintiff will amend this complaint to allege their true names and
5 capacities when such are ascertained. Plaintiff is informed and believes and thereon alleges that
6 each of the fictitiously named Defendants is liable to the Plaintiff in some manner for the
7 occurrences herein alleged.

8 10. At all times herein mentioned, Defendants, and each of them, were the apparent
9 ostensible principals, principals, apparent ostensible agents, agents, apparent ostensible servants,
10 servants, apparent ostensible employees, employees, apparent ostensible assistants, assistants,
11 apparent ostensible consultants and consultants of their Co-Defendants, and were as such, acting
12 within the course, scope and authority of said agency and employment, and that each and every of
13 such Defendants, as aforesaid, when acting as a principal, was negligent in the hiring, retention, and
14 supervision of each and every other Defendant as an agent, servant, employee, assistant and
15 consultant.

16 11. On July 30, 2002, Plaintiffs filed with the Medical Dental Screening Panel, Northern
17 Nevada Screening Panel, Reno, Nevada, as Medical Dental Screening Panel No. R02-07-2433, a
18 Complaint of Medical Malpractice against defendants.

19 12. On or about February 12, 2001, and thereafter, CHRISTIAN L BARRAZA was taken
20 to Defendants, and each of them, undertook for compensation to examine, diagnose, prescribe
21 medications, perform procedures, and to handle and control the care and treatment of CHRISTIAN
22 L. BARRAZA.

23
24

25 //

26

1 13. On or about February 12, 2001, and thereafter, Defendants, and each of them, were
2 negligent, careless and grossly negligent in their care and treatment of CHRISTIAN I. BARRAZA.
3 including their examination, diagnosis, treatment, referral and transfer. The negligence,
4 carelessness, and gross negligence, of Defendants, and each of them, caused substantial injury to
5 Plaintiff which caused and/or contributed to the death of CHRISTIAN I. BARRAZA. (See Exhibit
6 "A" and "B" attached hereto) --

7 14. As a direct and proximate result of the foregoing, Plaintiffs were injured in their health,
8 strength, and activity, sustaining injury to their body and shock and injury to her nervous system and
9 person, all of which injuries have caused and continue to cause Plaintiffs great mental, physical and
10 nervous pain and suffering, all to the injury and damage to said Plaintiffs in an amount in excess of
11 ten thousand dollars (\$10,000). (See Exhibit "A" and "B" attached hereto)

13 15. As a direct and proximate result of the foregoing, Plaintiffs have been and in the future
14 will be required to obtain the services of physicians, surgeons, and medical care in an amount in
15 excess of ten thousand dollars (\$10,000).

16 16. As a further direct and proximate result of the foregoing, Plaintiffs have sustained
17 general damages in a sum in excess of ten thousand dollars (\$10,000). --

18 17. As a further direct and proximate result of the foregoing, Plaintiffs have sustained
19 damages for loss of probable support, companionship, society, comfort and consortium in a sum in
20 excess of ten thousand dollars (\$10,000).

22 WHEREFORE the Plaintiff prays for judgment against the Defendants as follows:

23 1. Special damages in excess of ten thousand dollars;
24 2. General damages in excess of ten thousand dollars;
25 3. Costs of suit herein; and

1 4. For such other and further relief as the court deems just and proper.

2 DATED this 19 day of November, 2002.

LAW OFFICE OF STEPHEN H. OSBORNE, LTD.
Attorneys for Plaintiffs

STEPHEN H. OSBORNE
232 Court Street
Reno, Nevada 89501

1
2 GUADALUPE BARRAZA,)
3 MARTHA BARRAZA,)
and THE ESTATE OF CHRISTIAN)
I. BARRAZA, deceased,)
4)
Plaintiffs,)
5)
vs.) CV-S-_____)
6)
7 WASHOE MEDICAL CENTER INC.,)
MICHAEL WALBORN, M.D.,)
8 STEVEN SHANE, M.D., BARRY)
FRANK, M.D., and DOES I-X,)
9 inclusive,)
10)
Defendants.)
11)
12)
13)
14 **PROOF OF SERVICE**
15)
16 I hereby certify that I am an employee in the Office of the United States Attorney, Reno, Nevada
17 and I am of such age and discretion as to be competent to serve papers. On January 31, 2003, I served a
18 copy(ies) of **NOTICE OF REMOVAL** by placing said copy(ies) in a postpaid envelope addressed to the
19 person(s) named below at the place(s) and address(es) stated below and by depositing said envelope and
20)
21)
22)
23)
24)
25)
26)

1 contents in the United States mail at the United States Attorney's Office, 100 West Liberty, Suite 600, Reno,
2 Nevada 89501:

3 | Stephen H. Osborne, Esq. Edward J. Lemons, Esq. John Cotton, Esq.
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4 | Reno, Nevada 89501 6005 Plumas Street, Suite 300 2300 West Sahara, Suite 420
Attorney for Plaintiffs Reno, Nevada 8509-6000 Las Vegas, Nevada 89102

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Judy K. Farmer
JUDY FARMER
Legal Assistant